

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Randall D. Davis,)	C/A No. 3:11-1860-MBS-PJG
)	
Plaintiff,)	
)	REPORT AND RECOMMENDATION
v.)	
)	
Richland County Recreation Commission,)	
)	
Defendant.)	
_____)	

The plaintiff, Randall D. Davis (“Davis”), filed this employment case against the defendant, Richland County Recreation Commission. This matter is before the court pursuant to 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2) DSC for a Report and Recommendation on the Defendant’s motion to dismiss Davis’s claims under the First Amendment to the United States Constitution and 42 U.S.C. § 1983. (ECF No. 5.) In response, Davis stipulates that he has not asserted any claim under the First Amendment or § 1983 and states that he inadvertently included the following sentence in Paragraph 3 of his Complaint: “This action further arises under the First Amendment of the United States Constitution and 42 U.S.C. § 1983.” (ECF No. 11.) Davis further states that this language should be treated as stricken from the Complaint. Therefore, based on the parties’ assertions and Davis’s stipulation, the court recommends striking the above sentence from Paragraph 3 of Davis’s Complaint and terminating the Defendant’s motion to dismiss (ECF No. 5) as moot.

June 6, 2012
Columbia, South Carolina



Paige J. Gossett
UNITED STATES MAGISTRATE JUDGE

The parties’ attention is directed to the important notice on the next page.

Notice of Right to File Objections to Report and Recommendation

The parties are advised that they may file specific written objections to this Report and Recommendation with the District Judge. Objections must specifically identify the portions of the Report and Recommendation to which objections are made and the basis for such objections. “[I]n the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

Specific written objections must be filed within fourteen (14) days of the date of service of this Report and Recommendation. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b); see Fed. R. Civ. P. 6(a), (d). Filing by mail pursuant to Federal Rule of Civil Procedure 5 may be accomplished by mailing objections to:

Larry W. Propes, Clerk
United States District Court
901 Richland Street
Columbia, South Carolina 29201

Failure to timely file specific written objections to this Report and Recommendation will result in waiver of the right to appeal from a judgment of the District Court based upon such Recommendation. 28 U.S.C. § 636(b)(1); Thomas v. Arn, 474 U.S. 140 (1985); Wright v. Collins, 766 F.2d 841 (4th Cir. 1985); United States v. Schronce, 727 F.2d 91 (4th Cir. 1984).